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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/683,985	10/10/2003	Kemal Guler	200313472-1	3445
22879 7590 08/20/2007 HEWLETT PACKARD COMPANY P O BOX 272400, 3404 E. HARMONY ROAD INTELLECTUAL PROPERTY ADMINISTRATION FORT COLLINS, CO 80527-2400			EXAMINER LEVINE, ADAM L	
			ART UNIT 3625	PAPER NUMBER
			MAIL DATE 08/20/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/683,985

Applicant(s)

GULER ET AL.

Examiner

Adam Levine

Art Unit

3625

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 15 June 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 11-14, 16-21 and 23-36 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 11-14, 16-21 and 23-36 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

Applicants' amendments and remarks filed June 15, 2007, are responsive to the office action mailed March 23, 2007. The amendments cancel claims 1-10, 15, and 22, amend claims 11-13 and 16-18, and add new claims 25-36. Claims 11-14, 16-21, and 23-36 are currently pending and are examined in this office action.

### ***Response to Amendment***

#### *Pertaining to objections to claims in the previous office action*

Claim 11 was objected to and has been amended as suggested by the examiner. The objection is withdrawn.

#### *Pertaining to rejection under 35 USC§112 in the previous office action*

Claims 1-12, 15, 17, and 22 were rejected as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claims 1-10, 15, and 22 have been cancelled. Claims 11-12 and 17 have been adequately amended. This rejection is withdrawn.

#### *Pertaining to rejection under 35 USC§101 in the previous office action*

Claims 1-10 were rejected because they were directed to non-statutory subject matter. Claims 1-10 have been cancelled. The rejection is withdrawn.

***Response to Arguments***

Applicant's arguments filed June 15, 2007, with regard to claim 11,14,16, and 23-36 have been fully considered but they are not persuasive. Applicant's arguments, see remarks, pages 11-12, filed June 15, 2007, with respect to the rejection(s) of claim(s) 12-13 and 17-21 under 35 USC §102, have been fully considered and are persuasive. Therefore, the rejection of those claims has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Chambers (US Pub. No. 2005/0055299).

With regard to claims 11,14, and 16, In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., the end-user independently selecting or customizing the feedback rules) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). Please note the differences in claims 12-13 and 17-21.

With regard to claims 23-36, the claims are such broadly worded "means" claims that they could be interpreted to cover any "means for executing programs and instructions," or any "means for providing a user interface," that could potentially be used for the purposes indicated. The previously cited prior art discloses such means.

***Claim Objections***

1. Claim 12 is objected to because of the following informalities: "only if a rank the bidder," should be "only if a rank of the bidder," or "the bidder's rank." This was probably an attempt to provide antecedent basis for "rank," but "rank" is already introduced as "his rank." Appropriate correction is required.
2. Claim 24 is objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. This claim reverts back to the automatic selection of feedback rules based on auction details. This would not be improperly dependent under other circumstances, but given the prior art already discussed, and applicants' remarks, this claim essentially backs out of the limitation in which the end user selects the feedback rule.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. **Claims 25 and 31 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.**

Claim 25 recites the limitation "the input rules" in lines 5-6. There is insufficient antecedent basis for this limitation in the claim. It is unclear whether this is an attempt

to refer to "input details," "feedback rules," or some new concept not previously introduced.

The term "variable" in claim 31 is a relative term that renders the claim indefinite. The term "variable" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

**4. Claims 11,14,16, and 23-36 are rejected under 35 U.S.C. 102(b) as being anticipated by Abeshouse (Paper # 20070319; US Pub. No. 2002/0099643).**

Abeshouse teaches all the limitations of claims 11,14,16, and 23-36. For example, Abeshouse discloses a system and computer readable medium for allowing the user to create an online auction, conduct an auction, accept bids from participants, and determine rules for providing or withholding information regarding the auction from the bidders (see at least abstract, figs.2,5,9). Abeshouse further discloses:

- allowing selection of a feedback rule: for an online auction contemporaneously with an end-user initiating the online auction, wherein the feedback rule comprises at least one of the group consisting of personalized feedback,

conditional feedback, and timing of feedback (see at least figs.5-16; page 7 ¶¶0080-0083, page 10 ¶0101, page 20 ¶0172); selecting feedback rules by the end-user from a pre-determined set of feedback rules (see at least page 7 ¶¶0080-0083, page 8 ¶0089, page 10 ¶0101, page 20 ¶¶0172-0174); customizing feedback rules by the end-user after the online auction has begun, changing previously customized feedback rules by the end-user after the auction has begun, allowing the end user to change selection of feedback rules for the online auction during the online auction (see at least page 7 ¶¶0080-0083); customizing feedback rules by the auction program based on the auction rules entered by the end-user (see at least figs.2,5,9-10, page 7 ¶¶0080-0083, page 8 ¶0089, page 10 ¶0101, page 20 ¶¶0172-0174); comparing the auction rules entered by the end-user to previously stored auction rules to ascertain similarities and selecting feedback rules by the auction program for the online auction based on similarities of the auction rules for the online auction with the previously stored auction rules, comparing an auction type entered by the end-user to previously stored auction types, selecting feedback rules by the auction program based on the feedback rules used for previously stored auction types, selecting the feedback rule by the instructions based on auction details provided by the end-user initiating the online auction (see at least abstract, figs.2,4; page 4 ¶0059, page 5 ¶¶0068-0069, page 6 ¶0073, page 7 ¶0083, page 13 ¶0128. Please note: in addition, it is examiner's position that this feature would not distinguish

because many auction types include feedback rules as part of the standard auction format).

- storing the customized feedback rules: for future use by the auction program (see at least abstract, page 4 ¶¶0056,0059,0062; page 5 ¶¶0064,0070. Please note: this feature is inherent in any computerized system as the rules must be stored in memory in some form in order to be put into use.);
- conducting the online auction by the auction program: using the feedback rules (see at least abstract, figs.1-16, page 1 ¶0004, page 2 ¶¶0023,0026); selecting an event tracked by the online auction, wherein occurrence of the event triggers a change of feedback rules during the online auction (see at least abstract, page 7 ¶¶0080-0083. Please note: the bidder meeting a condition is an example of an event tracked by the auction warranting a change of rules, i.e., allowing the bidder to receive feedback data).
- a computer readable medium: containing instructions that are executable by a computer system (see at least abstract, page 3 ¶0031).
- feedback rule is one of the group consisting of: anonymous feedback, personalized feedback, conditional feedback, timing of feedback, periodic feedback, continuous feedback, a combination of leading bids and rank among leading bids, and a combination of leading bids and whether among leading bids, further allowing the end-user to select at least one feedback rule from the group: no feedback, full disclosure, leading bids, rank among leading bids, whether among leading bids, a combination of leading bids and rank among leading bids,

and a combination of leading bids and whether among leading bids (see at least see at least figs.5-16; page 7 ¶¶0080-0083, page 10 ¶0101, page 20 ¶0172.

Please note: regarding claims 20 and 21, at least anonymous, personalized, and conditional feedback are disclosed in addition to others).

- a processor: a network interface coupled to said processor, an auction program operable to provide data to client computers over the network interface for generation of an auction interface (see at least abstract, figs.1,3-4,6-8,11-16; page 2 ¶¶0026-0027, page 3 ¶¶0031,0041; pages 3-4 ¶¶0054-0059).
- an interface: (see at least figs. 6-8,11-16, page 18 ¶0165).

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**5. Claims 12-13 and 17-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Abeshouse (Paper # 20070319; US Pub. No. 2002/0099643) in view of Chambers (US Pub. No. 2005/0055299).**

Abeshouse teaches all of the above as noted under the 35 USC §102 rejection.

Abeshouse teaches a) customizing feedback rules, b) selecting feedback rules, c) various feedback rules and variations thereof, d) an end-user operating together with an

auction system, or coordinator, and potentially the end-user and auction coordinator being one and the same (see at least page 1 ¶¶0010), and e) the end-user and auction system or coordinator together formulating details of an auction, including various rules. Abeshouse however does not explicitly disclose the permitting an end-user of an online auction to customize feedback of the online auction by selecting a feedback rule (independently of other auction details). Chambers teaches a) customizing feedback rules, b) selecting feedback rules, c) various feedback rules and variations thereof, d) an end-user operating together with an auction system, and d) the end-user and auction system together formulating details of an auction, including various rules, and also teaches permitting an end-user of an online auction to customize feedback of the online auction by selecting a feedback rule (see at least abstract, figs.5-6, page 6 ¶¶0080, page 7 ¶¶0084,0087; pages 7-8 ¶¶0095-0096). Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to include in the invention of Abeshouse the explicit disclosure of permitting an end-user of an online auction to customize feedback of the online auction by selecting a feedback rule, as taught by Chambers, in order to facilitate end-user control over the auction toward obtaining the best price, thereby encouraging greater use of the invention in commerce.

### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Adam Levine whose telephone number is 571.272.8122. The examiner can normally be reached on M-F, 8:30-5:00 Eastern.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffrey A. Smith can be reached on 571.272.6763. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3625

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Adam Levine  
Patent Examiner  
August 14, 2007

  
YOGESH C. GARG  
PRIMARY EXAMINER  
TECHNOLOGY CENTER 3600